

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

QUINCY DESHAN BUTLER	§	
VS.	§	CIVIL ACTION NO. 9:16-CV-210
DIRECTOR, TDCJ-CID	§	

MEMORANDUM OPINION AND ORDER

Petitioner, Quincy Deshan Butler, an inmate confined at the Eastham Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

A Memorandum Opinion and Order denying this petition and Final Judgment were entered on March 20, 2020 (docket entry nos. 129 & 130). Petitioner filed a Motion to Alter or Amend Judgment, which was denied by Memorandum Order on May 12, 2020 (docket entry nos. 135-136 & 141). Currently pending is a Motion for Certificate of Appealability (docket entry no. 138).

After a careful review of the motion, the Court is of the opinion petitioner is not entitled to a certificate of appealability. An appeal from a judgment denying post-conviction collateral relief may not proceed unless a judge issues a certificate of appealability. *See* 28 U.S.C. § 2253. The standard for a certificate of appealability requires the petitioner to make a substantial showing of the denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004). To make a substantial showing, the petitioner need not establish that he would prevail on the merits. Rather, he must demonstrate that the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions presented are worthy of encouragement to proceed further. *See Slack*,

529 U.S. at 483-84. Any doubt regarding whether to grant a certificate of appealability should be resolved in favor of the petitioner, and the severity of the penalty may be considered in making this determination. *See Miller v. Johnson*, 200 F.3d 274, 280-81 (5th Cir.), *cert. denied*, 531 U.S. 849 (2000).

In this case, petitioner has not shown that any of the issues would be subject to debate among jurists of reason. The questions presented are not worthy of encouragement to proceed further. Therefore, petitioner has failed to make a sufficient showing to merit the issuance of certificate of appealability. Accordingly, a certificate of appealability will not be issued.

So ORDERED and SIGNED, Jul 02, 2020.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge